



2026:CGHC:29594-DB



CGHC010345242025



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 9928 of 2025

- 1** - Vidyasagar Ratre S/o Ramratan Ratre Aged About 34 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Baroli, District : Mahasamund, Chhattisgarh
- 2** - Salik Ram Nourange S/o Hiraram Nourange Aged About 37 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Farfoud, District : Raipur, Chhattisgarh
- 3** - Lomesh Kumar Kurre S/o Bhuneshwar Prasad Kurre Aged About 35 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Chatoud, District : Dhamtari, Chhattisgarh
- 4** - Ghanshyam Puri S/o Janak Puri Goswami Aged About 35 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Gureda, District : Balod, Chhattisgarh
- 5** - Lokesh Kumar S/o Dushyant Sonwani Aged About 34 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Devkar, District : Bemetara, Chhattisgarh
- 6** - Sanjeev Kumar Yadav S/o Devchand Yadav Aged About 41 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Chichola, District : Rajnandgaon, Chhattisgarh
- 7** - Dikpal Tandon S/o Satrugan Lal Tandon Aged About 41 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Adbhar, Block Malkharoda, District : Sakti, Chhattisgarh
- 8** - Divya Pandey D/o Basant Kumar Pandey Aged About 50 Years Working As Ophthalmic Assistant Officer And Posted At Govt. Primary Health Center Aadawall, District : Bastar(Jagdalpur), Chhattisgarh



9 - Bhanu Pratap Dhruw S/o Sant Ram Dhruw Aged About 44 Years
Working As Ophthalmic Assistant Officer And Posted At Govt. Primary
Health Center Patewa, District : Mahasamund, Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Department Of Health
Medical And Family Welfare, Mahanadi Bhawan, Atal Nagar, Mantralaya
New Raipur, District : Raipur, Chhattisgarh

2 - Director Directorate Of Health Medical And Family Welfare
Department Indravati Bhawan, Atal Nagar, New Raipur, District : Raipur,
Chhattisgarh

... Respondent(s)

For Petitioner(s) : Mr.Ajay Shrivastava, Advocate

For Respondent(s) : Mr.Prasun Bhaduri, Deputy Advocate General

Hon'ble Mr. Ramesh Sinha, Chief Justice

Hon'ble Mr. Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

14/07/2026

1. Heard Mr. Ajay Shrivastava, learned counsel for the petitioner.
Also heard Mr. Prasun Bhaduri, learned Deputy Advocate General
for the State/respondents.
2. By this petition under Article 226 of the Constitution of India, the
petitioner seeks for the following relief(s):

*“ (i) That, this Hon'ble Court may kindly be pleased to held
Chhattisgarh Health and Family Welfare Department Non
Clerical Paramedical and Nursing (Directorate Health
Service) Class-III Recruitment Rules 2013 as ultra-virus to*



the extent it does not provide promotional channel for Ophthalmic Assistant Officer.

(ii) That this Honble Court may kindly issue direction for inserting the promotional avenue in relevant schedule and rules in the interest of justice.

(ii) Any other relief which may be suitable in the facts and circumstances of the case, may also be granted in the interest of justice.”

3. The facts, in brief, as projected by the petitioners are that the petitioners were appointed as Ophthalmic Assistant (नेत्र सहायक) through direct recruitment after undergoing the prescribed selection process. They have been discharging their duties continuously for more than ten years with unblemished service records. The service conditions of the petitioners are governed by the Chhattisgarh Health and Family Welfare Department Non-Clerical Paramedical and Nursing (Directorate Health Service) Class-III Recruitment Rules, 2013. However, the said Rules do not provide any promotional avenue from the post of Ophthalmic Assistant, resulting in complete stagnation in service.
4. Despite rendering long years of service, the petitioners have been deprived of any opportunity for career progression solely because the Recruitment Rules, 2013 do not prescribe any promotional hierarchy for the post of Ophthalmic Assistant. In contrast, several States including Odisha, Jharkhand, Bihar, Punjab, Haryana, and Rajasthan have framed service rules providing a proper promotional channel for Ophthalmic Assistants. In the State of



Odisha, a four-tier promotional hierarchy has been notified, thereby ensuring career advancement and administrative efficiency.

5. The petitioners and similarly situated employees have submitted several representations to the competent authorities requesting creation of a promotional channel. The State Government, through its communication dated 06.12.2021, acknowledged the anomaly and informed that a committee had been constituted to examine the issue. However, despite the lapse of more than four years, no final decision has been taken and no promotional avenue has been created. The absence of any promotional channel has caused prolonged stagnation, adversely affecting the morale, efficiency, and legitimate service expectations of the petitioners. It is settled by judicial precedents of the Hon'ble Supreme Court that the State should provide a reasonable promotional avenue to its employees to prevent stagnation and to ensure efficient public administration.
6. Being aggrieved by the continued inaction of the respondents and the failure of the Chhattisgarh Health and Family Welfare Department Non-Clerical Paramedical and Nursing (Directorate Health Service) Class-III Recruitment Rules, 2013 to provide any promotional avenue for the post of Ophthalmic Assistant, the petitioners have approached this Court seeking appropriate reliefs, including a declaration that the said Rules are ultra vires to



the extent they fail to provide a promotional channel for Ophthalmic Assistants and consequential directions to the respondents to frame suitable promotional provisions.

7. Learned counsel for the petitioners submits that the impugned action of the respondents in failing to provide any promotional avenue to the post of Ophthalmic Assistant under the Chhattisgarh Health and Family Welfare Department Non-Clerical Paramedical and Nursing (Directorate Health Service) Class-III Recruitment Rules, 2013 is arbitrary, unreasonable, discriminatory and violative of Articles 14 and 16 of the Constitution of India. The continued denial of promotional opportunities has resulted in complete stagnation in service, rendering the petitioners remediless despite long years of satisfactory service. It is further submitted that several States, including Odisha, Jharkhand, Bihar, Punjab, Haryana and Rajasthan, have already framed service rules providing promotional avenues for Ophthalmic Assistants. In the State of Odisha, a four-tier promotional hierarchy has been established, demonstrating that a structured promotional channel is both feasible and administratively necessary. The failure of the respondents to provide a similar promotional mechanism, despite identical service requirements, is arbitrary and lacks any reasonable basis.
8. Learned counsel further submits that the respondents themselves have acknowledged the anomaly. By communication dated



06.12.2021, the Under Secretary informed that a committee had been constituted to examine and remove the anomaly relating to promotion. However, despite the passage of more than four years, no final decision has been taken and no amendment has been made to the Recruitment Rules, thereby perpetuating the grievance of the petitioners. It is submitted that the absence of any promotional avenue adversely affects the morale, efficiency and career progression of the petitioners. Creation of a reasonable promotional hierarchy would not only ensure fairness to the employees but would also improve the efficiency and quality of healthcare services rendered to the citizens of the State.

9. Learned counsel further submits that the Hon'ble Supreme Court has consistently recognized that the State should provide a reasonable promotional avenue to its employees to avoid stagnation and to maintain efficiency in public administration. The respondents' prolonged inaction is, therefore, contrary to the settled principles of service jurisprudence and constitutional fairness. Learned counsel relied upon the judgment of this Court passed in **WPS No.3004/2025 (Bhaypal Singh Kanwar v. State of Chhattisgarh and others)**, decided on 23.01.2026.
10. On the other hand, learned Deputy Advocate General appearing for the respondents/State submits that the writ petition is misconceived and devoid of merit. It is contended that the petitioners have no vested or fundamental right to claim promotion



or to seek creation of promotional posts as a matter of right. The determination of service conditions, including the prescription of promotional avenues and the creation of posts, falls exclusively within the domain of the State Government as a matter of policy. It is further submitted that the Chhattisgarh Health and Family Welfare Department Non-Clerical Paramedical and Nursing (Directorate Health Service) Class-III Recruitment Rules, 2013 have been framed by the competent authority in exercise of its statutory powers. The validity of the Recruitment Rules cannot be questioned merely because they do not provide a promotional channel for a particular cadre. Unless the Rules are shown to be contrary to any constitutional or statutory provision, judicial interference is unwarranted.

11. Learned Deputy Advocate General submits that the petitioners cannot seek parity with employees serving in other States. The service conditions governing State employees are framed independently by each State Government, keeping in view its administrative requirements, financial resources and policy considerations. Merely because certain other States have prescribed promotional hierarchies for Ophthalmic Assistant does not create any enforceable legal right in favour of the petitioners to claim similar benefits in the State of Chhattisgarh. It is further submitted that the communication dated 06.12.2021 only indicates that the issue regarding promotional avenues was under consideration by a committee. Such internal administrative



correspondence does not confer any enforceable or accrued right upon the petitioners, nor can it be construed as a decision of the Government to amend the Recruitment Rules. Learned Deputy Advocate General further submits that the creation of promotional posts, restructuring of cadres, amendment of Recruitment Rules and determination of promotional avenues involve complex administrative and financial considerations. These matters fall within the exclusive policy-making domain of the executive, and this Hon'ble Court, in exercise of its writ jurisdiction under Article 226 of the Constitution of India, ought not to direct the State to frame or amend statutory rules in a particular manner.

12. It is submitted that there is no hostile discrimination or violation of Articles 14 or 16 of the Constitution, as all Ophthalmic Assistant within the State of Chhattisgarh are governed uniformly by the same statutory Recruitment Rules. The absence of a promotional avenue applicable uniformly to the entire cadre does not amount to unequal treatment. Learned Deputy Advocate General, therefore, prays that the writ petition, being devoid of any legal or constitutional infirmity, deserves to be dismissed.
13. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the documents appended with writ petition.
14. This Court in **Bhaypal Singh Kanwar** (supra) observed as under:-



“14. This Court is conscious of the settled legal position that policy decisions ordinarily do not warrant judicial interference. However, where such policy results in manifest arbitrariness and hostile discrimination, the constitutional Courts are duty bound to step in to ensure fairness and equality in public employment.

15. Considering the totality of facts and circumstances of the case, this Court is of the considered opinion that the petitioner cannot be left remediless and subjected to perpetual stagnation merely due to omission of the post of Tracer in the Rules of 2018. At the same time, besides holding *Schedule-I and Schedule-IV of the Rules of 2018 to the extent it eliminates post and promotional channel for Tracer, as ultra vires*, ends of justice would be met by issuing appropriate directions to the respondent authorities to consider framing suitable rules or policy providing promotional avenues to the similarly situated employees holding the post of Tracer, as that of the petitioner.

16. The respondent authorities are directed to examine the grievance of the petitioner and take appropriate steps to frame suitable rules/policy or provide an alternative promotional avenues within a period of six months from the date of receipt of a copy of this order.

17. Accordingly, the writ petition is **allowed** to the extent indicated hereinabove. No order as to costs.”

15. This Court is conscious of the settled legal position that policy decisions relating to service conditions and framing of recruitment rules ordinarily do not warrant judicial interference. However, where such policy results in manifest arbitrariness, unreasonable



classification or complete denial of any promotional avenue leading to perpetual stagnation of a particular cadre, the Constitutional Courts are duty bound to exercise the power of judicial review to uphold the mandate of Articles 14 and 16 of the Constitution of India.

- 16.** The respondents have not been able to justify as to why the cadre of Ophthalmic Assistant alone has been left without any promotional avenue under the Chhattisgarh Health and Family Welfare Department Non-Clerical Paramedical and Nursing (Directorate Health Service) Class-III Recruitment Rules, 2013, whereas similarly placed technical cadres have been provided promotional hierarchy. The fact that several States have also provided promotional channels for Ophthalmic Assistant further demonstrates that creation of such a promotional hierarchy is both administratively feasible and conducive to efficient public administration.
- 17.** Considering the totality of the facts and circumstances of the case, this Court is of the considered opinion that the petitioners cannot be left remediless and subjected to perpetual stagnation throughout their service career merely because the Recruitment Rules, 2013 do not provide any promotional avenue for the post of Ophthalmic Assistant. The prolonged inaction of the respondents despite constituting a committee to examine the issue as early as on 06.12.2021 also cannot be countenanced. Accordingly, this



Court holds that the Chhattisgarh Health and Family Welfare Department Non-Clerical Paramedical and Nursing (Directorate Health Service) Class-III Recruitment Rules, 2013, to the extent they fail to provide any promotional channel for the post of Ophthalmic Assistant, are arbitrary and violative of Articles 14 and 16 of the Constitution of India and, therefore, cannot be sustained. However, instead of directing creation of any particular promotional post or hierarchy, it would be appropriate to direct the respondent authorities to frame suitable rules or policy providing a reasonable promotional avenue for the cadre of Ophthalmic Assistants.

18. Accordingly, the respondents are directed to examine the grievance of the petitioners and to take appropriate steps for framing suitable rules, amending the existing Recruitment Rules, 2013, or formulating an appropriate policy so as to provide a reasonable promotional avenue for the cadre of Ophthalmic Assistant, within a period of six months from the date of receipt of a certified copy of this order.
19. The writ petition is **allowed** to the extent indicated hereinabove.
No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE